

**UNITED STATES DISTRICT OF ILLINOIS
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MATTHEW C. CHARLES,)
Plaintiff,) Case No. 07 C 6578
v.) Judge Gettleman
RUSH NORTH SHORE)
MEDICAL CENTER,)
Defendant.)

PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS COUNT II

NOW COMES Plaintiff, MATTHEW C. CHARLES, by and through his attorneys, DONALD S. ROTHSCHILD and SARA L. SPITLER of GOLDSTINE, SKRODZKI, RUSSIAN, NEMEC and HOFF, Ltd, and for his **MOTION TO VOLUNTARILY DISMISS COUNT II**, states as follows:

1. This is a suit in equity authorized and instituted pursuant to the Americans with Disabilities Act, (“ADA”), 42 U.S.C. §12101 *et seq.* and The Family and Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. §2601 *et seq.*

2. This action was filed on November 20, 2007, following the issuance by the EEOC of a Notice of Right to Sue with regard to a Charge filed with the EEOC on September 27, 2006.

3. Count II of the Complaint filed by Plaintiff in this action asserts a claim for failure to reasonably accommodate pursuant to the ADA.

4. Defendant has filed a Motion to Dismiss Count II asserting that the failure to accommodate claim is beyond the scope of the Charge filed by Plaintiff with the EEOC, and, accordingly, that Plaintiff failed to exhaust his administrative remedies with regard to such claim.

5. In response to said Motion to Dismiss, Plaintiff hereby moves to voluntarily dismiss

Count II of his Complaint.

6. Plaintiff additionally requests that Defendant be ordered to answer Counts I, III and IV of the Complaint by a date certain. This action was filed on November 20, 2007, and more than ninety (90) days have passed without any answer or response by Defendant to Counts I, III and IV of the Complaint.

WHEREFORE, Plaintiff, MATTHEW CHARLES, respectfully requests that this Court enter an Order dismissing Count II of the Complaint and requiring Defendant, RUSH NORTH SHORE MEDICAL CENTER, to answer Counts I, III and IV of the Complaint forthwith.

Respectfully submitted,

MATTHEW C. CHARLES,

By: /s/ Donald S. Rothschild
One of his attorneys

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